

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

WP(C).No. 25541 of 2007(N)

AGAINST THE ORDER IN EA 170/2007 IN
OS.178/2000 of SUB COURT, PATHANAMTHITTA

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PETITIONER: JUDGMENT DEBTOR

G.RAJAGOPAL,
KULAMTHUMKAL DARSANA VEEDU,
THADIYLOOR MURI, AYROOR VILLAGE,
RANNY TALUK.

BY ADV. SRI.ARUN.B.VARGHESE

RESPONDENTS: DECREE HOLDER & AUCTION PURCHASER

1. STATE BANK OF TRAVANCORE,
THADIYLOOR BRANCH, REPRESENTED BY ITS MANAGER.
2. BIJU ABRAHAM, CHARUVIL VEEDU,
THADIYLOOR, AYROOR VILLAGE.

BY SC SRI.SATHISH NINAN
SRI.SANTHOSH MATHEW
SRI.THOMAS ABRAHAM
SRI.DIPU.R
SMT.MERCIAMMA MATHEW

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 16/10/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXTS:

EXT.P1: TRUE COPY OF THE EXECUTION PETITION FILED IN O.S. NO: 178/2000

EXT.P2: -DO- OF THE E.A. NO: 170/07 IN E.P. NO: 15/03 IN O.S. NO: 178/2000

EXT.P3: -DO- OF THE ORDER DT. 25/7/07 IN E.A. NO: 170/07 IN E.P. NO:15/03 IN O.S. NO: 178/00

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/TRUE COPY/

P.A.TO JUDGE

M.N. KRISHNAN, J.

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W.P.C. NO. 25541 OF 2007

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Dated this the 16th day of October, 2007.

J U D G M E N T

This writ petition is filed seeking to set aside Ext.P3 order passed by the learned Subordinate Judge, Pathanamthitta. The judgment debtor in the case filed an application under Section 151 CPC with a prayer not to issue sale certificate. The Court below rightly rejected the prayer. When a sale is conducted under the provisions of the CPC the procedure for setting aside the sale is contemplated under Order 21 Rule 89 and Rule 90 CPC for grounds mentioned therein. When it is not resorted to, it is obligatory on the part of the Court to confirm the sale and issue sale certificate. Unless there is a judicial intervention by the Court under Order 21 Rule 89 or Rule 90 no further indulgence can be shown to any of the parties. The question whether there can be a settlement of the matter and reconveyance of the property between the judgment debtor and the auction purchaser, are all matters which are within

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their province. Now, I am informed that delivery has not been effected. In the circumstances, I find that the writ petition does not require further entertainment and therefore it is dismissed.

M.N. KRISHNAN, JUDGE.

ul/-